CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

COUNCIL AGENDA: 10-24-00
ITEM: 15.a.

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: James R. Derryberry

SUBJECT: SEE BELOW

DATE: October 20, 2000

Approved Darrell Darbon

Date 10-20-00

COUNCIL DISTRICT: 2

SUBJECT: APPEAL OF THE CERTIFICATION BY THE PLANNING COMMISSION OF THE COYOTE VALLEY RESEARCH PARK FINAL ENVIRONMENTAL IMPACT REPORT

RECOMMENDATION

Uphold the Planning Commission's certification of the Coyote Valley Research Park Final Environmental Impact Report as complete and in compliance with California Environmental Quality Act (CEQA).

BACKGROUND

This is an appeal of the certification by the Planning Commission of the Coyote Valley Research Park Final Environmental Impact Report (CVRP FEIR) on October 5, 2000.

The CVRP FEIR is for a Planned Development Rezoning to allow the development of approximately 689 gross acre site locate west of U.S. Highway 101 and Coyote Creek and immediately south of Tulare Hill. The rezoning would allow development of 6.6 million square feet of building space on approximately 388 acres. The remaining acreage will be used for infrastructure to serve the project including a 269-acre flood detention basin and an electric power substation.

The Planning Commission considered the CVRP FEIR at public hearings on September 27 and October 5, 2000. They certified the FEIR as complete and in compliance with CEQA by a 6-1-0 vote, Commissioner Levy opposed, on October 5. Under CEQA and Title 21 of the Municipal Code, the Planning Commission's certification of an EIR can be appealed to the City Council within 3 business days of the Planning Commission's action. In this case the appeal deadline was extended to October 11, 2000 at 5:00 p.m. because of the City's observance of Columbus Day on October 9th. At of the close of business on October 11th, staff had received twelve (12) appeal or secondary comment letters from the following agencies (in random order):

- Sierra Club, Loma Prieta Chapter
- City of Salinas
- Santa Clara Valley Audubon Society
- County of Santa Cruz
- Young Ranch (Sheppard, Mullin, Richter & Hampton)
- Santa Clara County Roads Commission
- LandWatch of Monterey County
- Community Homeless Alliance Ministry
- Transportation Agency for Monterey County
- County of Monterey
- Association of Monterey Bay Area Governments
- City of Gilroy

The EIR examined the potential for the project to result in significant environmental impacts. The EIR concluded that the project would result in significant unavoidable impacts including land use, transportation and circulation, air quality, noise, cultural resources, visual and aesthetic, growth inducement, and cumulative impacts. The project would result in significant unavoidable cumulative impacts to traffic, air quality, vegetation and wildlife, loss of prime farmland, loss of Heritage trees, hazardous materials, loss of open space, visual, and utilities.

At the Planning Commission hearings on September 27, and October 5, 2000, between 300-350 people were in attendance and approximately 100 individuals and representatives of organizations offered testimony regarding the information in the EIR. There was a mix of speakers in both support and opposition to the certification of the EIR and approval of the project. The testimony related to impacts of the project on jurisdictions to the south of the project site, transportation analysis methodology and forecasts (80/20 split), potential traffic impacts and associated mitigation measures, parking ratios, loss of agricultural land, flooding potential, housing demand and price, timing of Light Rail Transit to North Coyote Valley, and implementation of smart growth concepts. The primary concerns raised by the cities and public agencies to the south were that the EIR failed to adequately address potential project impacts in their jurisdictions on traffic, affordable housing supply, and air quality in the Monterey Air Basin.

The Planning Commission discussed the forecasts of the 80 / 20 split and how that affected the analysis of the EIR. The Commissioners concurred that the 80 / 20 split reflected a worse case analysis with all new workers and housing demands, and it should be expected that a number of the employees of the campus would already be working in the region. The Commission also discussed the relationship of the proposed project to the development of the balance of the campus industrial area, noting that the subsequent development applications would be addressing their individual environmental impacts, and that the EIR before them included a cumulative discussion of the full 50,000 jobs build out of North Coyote Valley.

ANALYSIS

Copies of the appeal letters were previously provided to the Council under a separate cover memo, dated October 12, 2000. The issues raised by the appellants include: traffic distribution formula (80/20 split), transportation impacts, interregional traffic model, air quality, nitrogen deposition/serpentine soils, growth served by infrastructure, alternative sites, and recirculation. All of these issues have been previously raised and addressed in the certification process. The purpose of this memorandum is to provide further clarification on the several predominant issues.

Traffic Distribution Formula (80/20 split)

Several of the appeals of the Planning Commission's certification of the EIR have raised a concern about the use of 80/20 formula for the distribution of project related traffic. In the case of the traffic study for this EIR, Hexagon Transportation Consultants, Inc. and City staff distributed 20 percent of the projected CVRP traffic to and from destinations to the south of the North Coyote Valley Campus industrial area. City staff and its traffic consultant reassessed traffic distribution using the data provided by AMBAG and others. That reassessment clearly confirmed the use of the 80/20 split. City staff and its traffic consultant also did further research on the relative affordability of housing to determine if that might alter the relative distribution. It found nothing in that data to suggest that there would be more than 20 percent of the workers for this site coming from the south.

To summarize, use of this distribution is supported by a variety of factors:

The first factor that supports the use of this distribution formula is that this is a near-term traffic impact analysis, which represents projected conditions at the point in time when the proposed development reaches its planned build-out condition. The target year for CVRP project is approximately 2005 to 2010. This results in a conservative analysis by placing more trips on the roadways in a shorter period of time. The evidence demonstrates that within this time frame, the distribution of housing units will continue to be heavily weighted towards the northern portions of Santa Clara County and the southern portions of San Mateo and Alameda County, versus communities in the south, such as Morgan Hill, Gilroy, Hollister, Salinas and other Monterey County or Santa Cruz County communities.

A second factor supporting the use of the 80/20 split is that the current distribution of Cisco workers is very much oriented towards the greater Bay Area, as opposed to the communities south of the proposed project site. This conclusion is based upon evidence in the record in the form of dot maps provided by Cisco to illustrate the residence location of their current work force.

A third factor supporting the use of the 80/20 split is that the existing and planned roadway capacity from the south is very limited due to the current commuting patterns. The lack of additional available roadway capacity to the south restricts the number of new vehicle trips that will be able to reach the project site from the south. The City of

San Jose has always intended for the North Coyote Valley industrial area to help promote new reverse commute from the residential areas of San Jose and other north Santa Clara County communities. The benefits of this reverse commute have been clearly demonstrated by the City's Tranplan model and past studies, including model runs performed to analyze the 1998 General Plan amendment for the North Coyote Valley area.

A fourth, and single most important, factor used to derive the 80/20 split was the location of existing housing and the magnitude of projected housing. For the past ten years the City's traffic consultant has worked closely with many of the communities located south of the proposed Cisco site, including Hollister, San Benito County, Watsonville, Monterey County and Santa Cruz County. As a result, City staff and Hexagon were familiar with the amount of existing planned housing in these communities. This knowledge, with the additional research provided by the City's EIR consultant, supported the use of the split.

To ensure that the use of the 80/20 split was reasonable, City staff and its traffic consultant sought to determine whether there was consistency with the traffic distributions recently derived for comparable developments within the Edenvale Redevelopment area. Many of the EIR comments have challenged the forecast that only 20 percent of the CVRP project trips would be coming from the south. For example, AMBAG specifically asked that this forecast be reassessed. Based on this request, the City of San Jose requested that AMBAG provide the housing data used in their transportation model so it could be used to reevaluate the distribution assumption. The Santa Clara Valley Transportation Authority was also asked to provide the same kind of information. These two sets of data were merged together, using a geographic information system ("GIS"), and a combined regional map was prepared, using concentric circles drawn at five-mile intervals. The GIS software was then used to tabulate the amount of housing within each five-mile interval north and south of the site. The results of this work demonstrated that an 80/20 ratio is a reasonable approximation of how much housing exists and is planned north and south of North Coyote Valley.

Some comments suggested that housing affordability also be considered in this process. For example, some comments have attempted to urge the use of median prices of housing. City staff and its traffic consultant determined that housing availability is not well indicated by simple comparisons of median sales prices. It is far more critical to examine the number of houses that are sold within certain price ranges than to simply compare median sale prices. For example, the number of sales in Hollister that were below Hollister's median price range was 283, while the number of sales in San Jose that were below Hollister's median price range was 6,317 (more than 20 times the number in Hollister). Table MR-1 in the First Amendment to DEIR provides a detailed analysis of existing and projected housing units to the north and the south of the proposed Project.

Furthermore, housing choices are also based on a wide variety of factors, including proximity to work, quality of schools, neighborhood amenities, not simply the price of a house. Staff sought to forecast where the future workers of the Cisco project site are likely to reside. Review of the

employee distribution for current Cisco workers revealed an overwhelming preference for the greater Bay Area. The Sedway report also includes data showing that 88 to 91 percent of professional and technical workers are located within the 45 and 90 minute commute sheds north of the valley.

Nothing presented to City staff has suggested that use of the 80/20-traffic distribution formula was inappropriate or unreasonable.

Transportation Impacts

The FEIR disclosed the project will result in one significant and unavoidable traffic impact. The project will add more than one percent of capacity to one segment of freeway that operates at a level of service F (US 101, SR 85 to the SB Lane Drop). This impact is significant and unavoidable because the cost and magnitude of the widening of US 101 to eight lanes does not bear a reasonable relationship to the impacts caused by the project. In addition, the widening is neither planned, by CalTrans, nor is there any established mechanism to collect funds for this unplanned project. Likewise, the suggestion that the project contribute to an extension of the LRT to the project site will not reduce this impact to a less than significant level. The VTA has not approved an extension of the LRT and has not established any mechanism to collect funds for this unplanned project. The provision of shuttles to the existing LRT station, which is proposed by the project, is superior to the collection of money for an unplanned project.

Mitigation for congestion on US 101, a regional transportation facility, will require a regional solution. The County Congestion Management Agency is preparing a Countywide Deficiency Plan for alleviating congestion on regional facilities.

As stated on page 44 of the Congestion Management Program Transportation Impact Guidelines, pending adoption of the Countywide Deficiency Plan, Lead Agencies do not need to prepare local deficiency plans. If a project causes a transportation impact on a CMP facility that cannot be reduced to a less than significant level, the Lead Agency must implement, or require the project's sponsor to implement the "Immediate Actions" from the CMP Transportation Impact Guidelines as part of the project's approval. The site planning elements and TDM program that CVRP has agreed to implement fully complies with this requirement.

Interregional Traffic Model

A number of oral and written comments presented to the Planning Commission, as well as appeal letters filed with the City Council, assert the traffic analysis developed by the professional consultants should not have used the City's TRANPLAN traffic model as one tool in assessing the projected distribution of project trips. These commentors believe that the consultants should have instead used an "interregional" traffic model which would combine the San Francisco Bay area (the ABAG planning area) and the counties to the south (the AMBAG planning area) into a single unified traffic model.

First of all, it should be recognized that no such interregional traffic model exists. Efforts to develop a model for the AMBAG Counties have been ongoing for several years but have not been completed due to difficulties in developing a workable model for those counties. There is no evidence that such a model will successfully be developed in the foreseeable future. A process of attempting to develop an interregional model could not be initiated unless and until an AMBAG regional model is developed.

More importantly, it should also be recognized that use of an interregional traffic model would not change any of the results of the traffic analysis that was completed using existing traffic modeling tools and techniques. In order to forecast the distribution of traffic associated with a proposed project, a gravity modeling process, which matches trip originations and trip destinations, is used. In this process, trips are forecasted to occur between trip origination and trip destination zones taking account of the number of trips expected to be generated in an trip originating zone and the number of trips expected to end in a trip attracting zone. In simple terms, in a gravity traffic modeling process, the number of commute trips forecasted to originate in a particular residential zone is a function of the number of residences in that zone, and the number of commute trips forecasted to end in a particular employment zone is a function of the number of jobs in that zone. In order to estimate the distribution on the road network of trips associated with a particular project, the traffic modeling process also takes account of the distances between trip originating and attracting zones, the availability of connecting roadways, and other factors such as planned improvements and the level of congestion on those roads.

As Master Response number 2 in the First Amendment to the Draft Environmental Impact Report explains, the distribution of existing and planned housing within the region was a key input to the traffic modeling process. The data on the distribution of existing and planned housing was derived from the relevant general plans and regional (ABAG and AMBAG) planning documents. This is the same housing data that is now used throughout the ABAG and AMBAG regions for traffic modeling purposes and which would be used in the event an interregional traffic model is ever developed. An interregional traffic model would use the same data relating to other factors such as the configuration of the existing roadway system and planned improvements. Thus, use of an interregional traffic model would not, in and of itself, change the results of the traffic modeling process, as commentators assert. Significant changes in the results would only occur if different data were used for key inputs such as the number of existing and planned houses in given areas or the configuration of the relevant roadway network. While a number of commentators have indicated that different data might have been used relating to the distribution and planned housing in the AMBAG region, none of the commentators indicate that the general plan and AMBAG data that the traffic analysis relied on is incorrect or that more accurate data are available, and none have shown that the projections in the EIR relating to the relevant traffic network is inaccurate.

Air Quality (Transport)

Commentors have argued that (1) Project emissions will be channeled directly into San Benito County due to terrain and wind patterns, where they could cause or contribute to ozone

exceedances in a Class I area, the Pinnacles National Monument, and (2) since San Francisco Bay Area Air Basin ("SFBAAB") emissions already cause exceedances of the ozone standard, the Project would aggravate these exceedances. These contentions are speculative and unsupported for three reasons. First, Project emissions would occur throughout the Bay Area, not just at the Project site, due to the fact that vehicles are driven throughout the area, and thus Project emissions would contribute to regional air quality impacts. The EIR concluded that regional air quality impacts are significant and includes mitigation to reduce them.

Second, the concentration level of regional pollutants would increase by only 0.1% as a result of the Project. A 0.1% increase in the lowest ozone standard, 0.08 PPM or 157 ug/m^3, is only 0.1 ppb or 0.2 ug/m^3. These concentrations are less than the lower limit of detection of methods used to monitor ozone. Therefore, even if Project emissions did cause an increase in ozone due to transport into a Class I area, the increase would be so small it could not be detected (monitoring threshold is a frequently used significance criterion). Finally, the Project's and SFBAAB's contribution to ozone exceedances within the North Central Coast Air Basin are already addressed in the BAAQMD's Attainment Plan.

Nitrogen Deposition/Serpentine Soils

Several comments were submitted during the Planning Commission hearings reiterating comments on the draft EIR questioning whether emissions of nitrogen oxides due to project-related traffic would result in increased deposition of nitrogen on Tulare Hill and Coyote Ridge. These commentors assert, based upon a research paper prepared by Dr. Stuart Weiss, that increases in nitrogen in these areas would, by acting as a fertilizer, encourage the growth of nonnative grasses in serpentine grassland habitats, and that these nonnative grasses would displace native species, such as the *Plantago erecta,* that are necessary to support populations of the Bay Checkerspot Butterfly.

This issue is addressed in detail in response to comment 9q-1 and the letter report from Dr. Patrick Boursier, a plant physiologist associated with H.T. Harvey & Associates, included in Appendix O of the First Amendment to the DEIR. That letter report explains that the scientific evidence does not establish a clear link between increases in nitrogen deposition and invasion of serpentine habitats by nonnative grasses. Response to comment 9q-1 also explains that any hypothesis that increases in nitrogen deposition due to air pollution has encouraged growth of nonnative grasses is seriously undermined by the fact that nitrogen oxide emissions in the Bay Area have *decreased* by over 25% in the past ten years.

Several, commentators contend, however, that because the Final Staff Assessment (FSA) for the Metcalf Energy Center (MEC), prepared by the CEC includes a mitigation measure relating to serpentine grassland habitat on Tulare Hill and Coyote Ridge, a similar measure should be required for the CVRP project. The mitigation measure adopted by the California Energy Commission requires that cattle grazing on 116 acres of Tulare Hill and 15 acres on Coyote Ridge be increased in order to control growth of nonnative grasses. This is consistent with the Weiss paper that concludes that elimination of cattle grazing is the primary cause of the growth of nonnative grasses in serpentine areas.

According to the FSA for the MEC, estimated nitrogen emissions from the MEC, which is a stationary emissions source, would be 124 tons per year from NOx and 119 tons per year from ammonia. This was estimated to increase the average amount of nitrogen deposition in serpentine areas in comparison with existing conditions by about 0.1 kg-ha/year – an increase of about 0.5% to 1%. By contrast, the NOx emissions associated with the CVRP project, because they relate to vehicle traffic, would not be concentrated in the local area but would be distributed over a very large area adjacent to transportation corridors. Based upon the data in the MEC study, deposition attributable to the CVRP project would be much lower, significantly less than 0.01 kg-ha/year. This is not a statistically significant change in comparison with existing nitrogen deposition rates in the South Bay area, which have been estimated to range from 8.5 to 15kg-ha/year, nor is it statistically significant in comparison with the values for the quantity of nitrogen, 100 – 313 kg-ha/year, that scientific studies have shown can trigger positive growth responses in serpentine grasslands.

Growth Served by Infrastructure

Several commentors have suggested that the EIR should have analyzed full buildout of North Coyote Valley in greater detail because some of the infrastructure proposed in connection with the Project would have sufficient capacity to serve all of North Coyote Valley. The proposed Project encompasses buildout of 688 acres of the 1, 444-acre North Coyote Valley, and the impacts of this development are analyzed in detail in the EIR. In addition, the EIR addresses full buildout of North Coyote Valley in both the cumulative impacts and growth inducing impacts sections of the EIR. With respect to cumulative impacts, the EIR identifies the environmental impacts of full buildout of the San Jose and Morgan Hill General Plans, buildout of North Coyote Valley and the Edenvale Redevelopment Areas and the MEC project. With respect to growth inducing impacts, the EIR acknowledges that some of the infrastructure proposed in connection with the Project would create capacity beyond that necessary to serve the Project and that the availability of this infrastructure could facilitate other development by providing facilities that could be used by such development. Moreover, as noted in the EIR, development of the North Coyote Valley is authorized by the General Plan and thus the development facilitated by this infrastructure capacity is growth which is consistent with the General Plan and established City policies.

Two specific infrastructure components raised by the commentors are addressed below:

Bailey/ 101 Interchange. The Bailey / 101 Interchange does not provide sufficient traffic capacity for the full buildout of North Coyote Valley, and additional major roadway improvements beyond those proposed by this Project (e.g., construction of a second interchange with Highway 101) will be required to accommodate the additional 30,000 jobs allowed in the Master Development Plan for the North Coyote Valley Campus Industrial Area. Full buildout of North Coyote Valley, including these additional roadway improvements, is addressed in the cumulative impacts section of the EIR.

Sewer Improvements. The City currently plans two separate out-of-valley sewer improvements. The first improvement, which is included in the City's Capital Improvement Program, is an operational improvement to replace the existing lift station located south of Tulare Hill. This improvement is proposed independently of the Project and will not increase the capacity of the sanitary sewer system in and out of the Coyote Valley. The second improvement is an approximately 42 to 52 inch sewer interceptor that would divert North Coyote Valley flows in a new parallel line that would connect to the City's Blossom Hill interceptor. This improvement is not a condition of the project, is not required for the project and is not being approved at this time.

Alternatives

The EIR has adequately addressed each of the possible alternatives to the present site, including all of the alternatives brought up by Commentors.

Off-Site Alternatives. No off-site alternative was identified that would "feasibly attain most of the basic objectives of the project". Alternative sites for the project that were identified by commentors include the following: (i) a site in Brisbane, (ii) the GE site at Monterey Highway / Curtner/Tully Road, (iii) sites in downtown San Jose, (iv) the former Lockheed/Moffett Field site and (v) the Pacific Commons Development in Fremont. The EIR has a discussion of each of these sites and the reasons for which they were not deemed preferable to the Project site in North Coyote Valley.

On-Site, Mixed-Use Alternatives. An on-site alternative of developing a mixed-use project, including housing, would not attain many of the basic project objectives and would not reduce the significant impacts identified in the EIR. A mixed-use alternative for the site would require reconsideration of longstanding land-use, environmental, and economic policies for the area. In addition, contrary to what has been argued, development of a mixed-use alternative, rather than the proposed Project, would not substantially lessen the significant effects of the Project on agricultural land, open space, wildlife, vegetation, traffic or air quality. Further, with respect to the proposed addition of housing units on the site, it would not reduce traffic and air quality impacts.

Research on the residents of the River Oaks Housing development in North San Jose has led City staff to conclude that at least 50% of those workers living in on-site housing would commute to the jobs outside of the North Coyote Valley area. Our survey results showed even in the area of highest job concentration in the region, 26% of the workers who lived in River Oaks commute more than 10 miles to their jobs. The addition of housing on the site and the addition vehicle trips would further exacerbate air quality impacts and add to the overall travel times and distances to the overall congestion levels on Highways 101, 87 and 85 and Monterey Road. For example, if 3000 housing units were added to the project as suggested, these units would house approximately 5,000 employees, assuming 1.7-employed workers per household. Even if 50 % or 2,500 of these employees worked at the project site the traffic and air quality impacts would not be significantly reduced. In addition, the vast majority of the remaining 2,500 employees would commute to jobs in the North, thereby exacerbating the peak commutes direction. This

would create additional traffic and air quality impacts and offset the environmental benefits of any trips that had been eliminated.

Relevance of the San Jose 2020 General Plan

During the testimony and in letters received since the certification of the EIR, groups have suggested that the amount of development activity that has occurred in the past 5 to 10 years is grounds to ignore the General Plan and to include housing in North Coyote Valley. The San Jose 2020 General Plan is reviewed by the staff, the Planning Commission, and City Council for potential modifications and updates to maintain the relevance of the document. The City has planned for the development of North Coyote Valley in the San Jose 2020 General Plan, as well as housing throughout the city, to appropriately balance the growth of the city. As a result of the job growth in the past decade, the city has on the surface improved the jobs-housing balance for the San Jose. At the same time, the City has continued to add each year through the General Plan Annual Review process thousands of additional housing units to the holding capacity of the city. More importantly, the City has continued to build more housing than any other city in the region each year, and will continue to do so for far into the future.

The issue of air quality impacts to the Monterey Bay Region was also discussed related to the appropriate air basin plan to be followed. The Commission noted that the impacts were identified as significant, unavoidable and that it was the most conservative in documenting the potential air quality impacts, but that the project was subject to the Bay Area Air Quality Management District plans rather than those of Monterey Bay Unified Air Pollution Control District.

Lastly, there was discussion on the arguments by several of the cities to the south that the project would result in increased housing demands on their communities to approve development. Staff reminded the Commission that any change to the General Plan by a jurisdiction is subject to CEQA review at that time and that analysis would address direct impacts caused by such a change. It is outside the scope of an EIR for the CVRP project or any other project to speculate on potential land use decisions by another agency. Staff explained that the issues of regional housing demand is a regional issue and is not a discussion required in an EIR. San Jose has chosen to do its part in providing housing beyond what was assumed in the adoption of the San Jose 2020 General Plan.

Recirculation

Several of the appeals of the Planning Commission's certification of the EIR have suggested that the inclusion of significant new information in the final EIR requires that it be recirculated for comment by the public. The principal example cited is the use of the Sedway Report.

Staff has reviewed not only the letters submitted in connection with the draft EIR, but has also considered the public testimony and other information submitted during the Planning Commission's hearings. No grounds for recirculation are present. The Sedway report does not demonstrate any new significant environmental impact, but merely confirms that the EIR

properly analyzed an already identified impact. Nothing submitted during the public review process would lead staff to change any of the conclusions set forth in the EIR.

Conclusion

The issues cited by the appellants were raised at the recent Planning Commission public hearings. No new information has been presented by appellants that would require recirculation of the EIR. Therefore, staff recommend that the City Council uphold the Planning Commission's certification of the Coyote Valley Research Park Final Environmental Impact Report and find it complete and in compliance with CEQA.

PUBLIC OUTREACH

The Draft EIR was circulated for public review and comment for a 45-day review period. A public hearing notice on the Draft EIR was sent to all property owners and occupants within 1000 feet of the project site and published in the *San Jose Mercury News*. Public hearings on the Final EIR were held before the Planning Commission on September 27, 2000, and continued to October 5, 2000.

COORDINATION

Preparation of this report was coordinated with the City Attorney's Office.

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